



MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

CONCERNING

The description of papers deemed necessary to be provided by law for the use and protection of American vessels engaged in the whale fisheries.

DECEMBER 27, 1839.

Read, referred to the Committee on Commerce, and ordered to be printed.

WASHINGTON, *December 17, 1839.*

SIR: I transmit, herewith, a report made to me by the Secretary of the Treasury, with accompanying documents in regard to some difficulties, which have occurred concerning the kind of papers deemed necessary to be provided by law for the use and protection of American vessels engaged in the Whale fisheries, and would respectfully invite the consideration of Congress, to some new legislation on a subject of so much interest and difficulty.

M. VAN BUREN.

Hon. WM. R. KING,
President of the Senate, pro tem.

TREASURY DEPARTMENT, *December 17, 1839.*

SIR: In compliance with an intimation in the late annual report on the finances, I enclose to you for the consideration of Congress, certain documents in relation to the decision made by the circuit court of the United States for the first circuit; as to the papers generally used by vessels engaged in the Whale fisheries.

These documents contain a copy of that decision; the instructions issued by the First Comptroller, in consequence of it; the applications made to this department and to yourself, for relief in the premises; the replies given; the character and extent of the relief granted under the existing laws; and the list of cases, which have already been exempted from penalties and duties by the action of the department. They are numbered from No. 1 to No. 9.

Though the ships and owners have thus been relieved from any penalties and the payment of any duties, yet it is still desirable that new legislation should be had in the premises, with a view to prevent costs of courts and

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incidental expenses in these cases, and to ensure more perfect control over the crews in whale ships abroad, as well as settle definitely the proper kind of papers which should hereafter be given to that class of vessels.

Respectfully, your obedient servant,

LEVI WOODBURY,

Secretary of the Treasury.

To the PRESIDENT of the United States.

No. 1.

United States vs. William Rogers and others.

JUNE TERM, 1838—AT NEWPORT.

Indictment against the defendants for an endeavor to commit a revolt on the 10th of May, 1838, on board the brig Troy, belonging to Bristol, Rhode Island, alleged to be a registered ship, owned by certain citizens of the United States, named in the indictment, and the defendants being seamen in and on board thereof, against the act of 3d of March, 1835, chap. 40. Plea, not guilty.

At the trial it was admitted by Greene, the district attorney, that the brig was, at the time when the supposed offence was committed, (May, 1838,) engaged in a whaling voyage, and her crew were, by the shipping articles, in the same year shipped for a whaling voyage. The ship's register was dated in 1833, and the voyage was undertaken without any surrender of the register, or taking out an enrolment and license pursuant to the act of 18th February, 1793, ch. 52, for enrolling and licensing vessels employed in the coasting trade and fisheries.

Upon this statement, which was agreed to be the truth of the case, the court suggested a doubt whether the offence, if any, was, under the circumstances, within the purview of the statute; and the case was spoken to by Greene, district attorney, Randolph and Pearce being counsel for the defendants.

STORY, J.—I am unable to persuade myself that the present indictment is maintainable under the circumstances. The act of 1835, ch. 40, provides that, "if any one or more of the crew of an American ship or vessel on the high seas, &c., shall endeavor to make a revolt," he and they shall, on conviction, be punished as provided for in the act. To bring the case within the statute, the voyage for which the seamen are shipped must be a lawful one, and they must at the time be of the "crew" of an American ship or vessel; and, of course, there must exist a lawful relation between them and the master. The statute of 1793, ch. 52, sec. 1, enacts that such ships or vessels as are enrolled and licensed according to the provisions of that act, "and none other, shall be deemed ships or vessels of the United States, entitled to the privileges of ships engaged in the coasting trade or fisheries;" and the whale fisheries are expressly within the purview of the act, as is abundantly seen in the form of the license prescribed by the fourth section. Now, it seems plain to me that no registered ship is entitled to carry on the usual fisheries, as an American ship, or as being entitled to the privileges of an American ship, under the statute of 1793, ch. 52. The

third section declares that it shall be lawful for the collectors of the several districts to enrol and license any ship or vessel which may be registered, upon such registry being given up, or to register any ship or vessel that may be enrolled, upon such enrolment and license being given up; and the sixth section treats every ship and vessel not so enrolled and licensed, and found engaged in the trade, as liable to pay the same fees and tonnage in every port of the United States as ships or vessels not belonging to a citizen or citizens of the United States; and, under certain circumstances, the ship or vessel, and its lading, become liable to forfeiture. My opinion, therefore, is, that this ship cannot be deemed an American ship within the sense of the third section of the statute of 1835, ch. 40, on which this indictment is founded, and the crew are not the crew of such an American ship or vessel, as is contemplated by the act. On this ground the indictment would fail upon the facts.

Indeed, my impression is, that upon the manifest intent of the act of 1793, ch. 40, no registered ship or vessel can, while she remains registered, engage in the whale fisheries; but she must surrender her register, and be enrolled and licensed for the fisheries; and that if she should be found engaged in such fisheries without such enrolment or license, at least if she has on board any article of foreign growth or manufacture, or distilled spirits, other than her stores, she would be forfeited. The main purpose of the act would be utterly frustrated upon any other construction, and the main securities and privileges of the trade be defeated.

The district judge concurred in opinion that the facts did not support the indictment, and thereupon the district attorney entered a *nolle prosequi*.

No. 2.

Circular to Collectors, Naval officers, and Surveyors.

TREASURY DEPARTMENT,
First Comptroller's Office, June 6, 1839.

SIR: From the results of recent trials in the courts of the United States, it appears that American vessels, sailing under *registers*, and without being enrolled and licensed, have, in violation of law, been for many years engaged in the whale fisheries.

On full examination of the records of this department, it is evident that this course has been adopted without its sanction, and it becomes matter of regret that a practice so erroneous should have been introduced and suffered so generally to be pursued, being contrary to the instructions of this office contained in the circular of 28th December, 1793, and its decisions in special cases submitted to it; and also in disregard of existing laws, as construed by the United States courts, subjecting such vessels, on their arrival, to foreign tonnage and duties, and in some cases to forfeiture of vessel and cargo; and, while at sea, alienating the American character of the vessel, and thus losing the wholesome protection of the laws against the revolt of their crews.

Owners and masters of such vessels now in port, or which may hereafter arrive, under these circumstances, will perceive the necessity of surrendering, or causing to be surrendered, the registers of their vessels, and having

them enrolled and licensed according to law, before proceeding to sea, and of pursuing such other measures for their own security as the important interests involved would seem to indicate.

By the 6th section of the act of the 18th of February, 1793, if, at the expiration of the year, for which the license is given, the vessel be at sea, and the master shall, within forty-eight hours after his arrival, deliver to the collector of the district in which he shall first have arrived, the license which shall have expired, and make oath that it expired while at sea, taking the certificate of the collector therefor, as provided in the 9th section of the same act, with which to proceed to his proper district, the forfeiture of the vessel and cargo, or payment of foreign tonnage and duties, as the case may be, is avoided.

The limited duration of the license, as is contended for by some, would not therefore appear to have been a sufficient reason for this clear deviation from existing laws.

Consequently, with a view to secure to such enrolled and licensed vessels all the benefits, privileges and protection of those laws, collectors of the customs are authorized and directed, on application, besides the papers before mentioned, to grant to such vessels general clearance, passport, bill of health, sea letter, and permit to touch and trade at any foreign port or place during the voyage, together with a certified copy of the crew list. On the clearance of such vessels, they will, in pursuance of the 21st section of the act cited, require from the master that his manifest of outward cargo be verified on oath, and on their arrival in port, the manifest and entry of inward cargo must, in like manner, be verified.

With respect to the cases of vessels sailing under registers which have recently returned from whaling voyages, as well as those of vessels which hereafter may arrive, until further legislation, the existing laws must be enforced as it regards the duty on the tonnage of the vessel and on the cargo, if it be of dutiable character, as well as other legal liabilities, the remedy for relief for any penalty, forfeiture, or disability, incurred by such vessels being in remission by the Secretary of the Treasury where his legal power may be exercised and the case shall justify his interference, or with Congress in regard to the duties.

The papers herein directed to be issued, being such as are made necessary for vessels employed in the foreign trade, with the exception of the permit to touch and trade as prescribed in the circular of the 28th December, 1793, it is presumed that collectors of the customs will encounter no difficulty in the premises.

Proper notice should, however, be given to the owners and masters of whaling vessels of the nature and object of these instructions, that they may incur no injury by neglecting to conform to them.

It has been made a question whether vessels, sailing under enrolments and licenses, with the papers before enumerated, might not take on board goods to be landed at foreign ports, with the right of drawback.

In view of such privilege, none but registered vessels, under existing laws, being permitted to engage in the foreign trade, it is the opinion of this department that it cannot be extended to vessels enrolled and licensed.

Another matter, as respects vessels enrolled and licensed for the coasting trade, is of sufficient importance to claim your attention.

Frequently applications are made by purchasers of coasting vessels, sold or transferred by process of law, to have them enrolled and licensed, in consequence of former owners withholding the old papers.

The proviso in the act of the 2d of March, 1797, obviates any distinction that may have been taken in practice between the papers of those and other vessels, and it is conceived that, if the old papers of such vessels be not surrendered on the change of property, the former owner or owners incur the penalty prescribed in the 14th section of the act of December 31, 1792, to be recovered, with costs of suit.

It is proper to add that these instructions have the approbation of the Secretary of the Treasury.

I am, very respectfully, sir, your obedient servant,

J. N. BARKER, *Comptroller*.

No. 3.

Circular supplementary to collectors, naval officers, and surveyors.

TREASURY DEPARTMENT,
First Comptroller's Office, June 22, 1839.

SIR: Inquiries having been made of this department on the part of some of the collectors of those districts to which registered whaling vessels belong, in relation to the particular duties and penalties to be imposed on such of said vessels and their cargoes as may return to port without having the requisite papers in force, it is found expedient that you should be informed:

1. That if a whaling vessel come into port not having been enrolled and licensed, as, by the recent decision of Mr. Justice Story, she cannot be considered a vessel entitled to the privileges of an American vessel employed in the fisheries, you have no alternative but to exact alien duty on the cargo, if it be subject to duty, according to the rates in force; and on the tonnage of the vessel, that is to say, one dollar per ton, being fifty cents per ton for tonnage duty, and fifty cents per ton for light money; the act of March 27, 1804, making the collection of light money consequent on the imposition of alien tonnage duty.

2. That a whaling vessel, under like circumstances, is not considered subject to the hospital tax, inasmuch as the act of July 16, 1798, imposes the tax only on the crews of vessels of the United States; and the recent decision of Mr. Justice Story determining a registered whaler not to be such a vessel in contemplation of law, she is consequently exempt from the tax.

3. That the sixth section of the act of 18th February, 1793, in relation to the enrolling and licensing of vessels to be employed in the coasting trade or fisheries, having especial reference to vessels found trading between district and district, or between different places in the same district, it is the opinion of this department, taking into view the proviso in the fourth section of the act of March 1, 1817, that a registered whaling vessel does not come within the operation of the first mentioned section as respects the forfeiture by sailing from one port of the United States to another port thereof, with the fruits of her enterprise, say oil and bone, or with such cargo as may have been taken in by her at a foreign port, for the purpose of delivering the several portions of said cargo according to its destination; but she will be liable to tonnage duties and light money at every port of arrival.

4. That although under these circumstances a registered whaling vessel may readily avoid incurring a forfeiture, the exaction of alien duties of tonnage and impost being an inevitable consequence of the recent decision of Mr. Justice Story, it is conceived that no officer of the Government has a right to undertake the remission of said duties; and, therefore, in such cases, if relief be sought, a protest should be filed, and application being made to Congress to obtain it, the collection of the duty bonds will probably be postponed till Congress decides.

5. That whaling vessels duly enrolled and licensed, and having permission to touch and trade at a foreign port, are not, on their arrival, subject to the hospital tax, within the meaning of the act of 1798, if it shall appear that they have not used such permission farther than to procure the necessary supplies; but if they, on coming into port, have foreign goods on board, as it will then be manifest that they have been engaged in trading abroad, within the fair meaning of the term, it is conceived that the tax should be collected of the crews according to the provisions of the act before cited.

6. That, in view of the ancient usage at some of the ports, and until Congress shall have an opportunity to legislate on the subject, the circular of the 6th instant, to which this is additional, is not to be considered as having reference to the case of any registered whaling vessel whose cargo had passed the custom-house before you received it, unless such case was specially presented to the department, and decided upon.

It would be most gratifying to the department if it could feel itself authorized, under existing laws, to extend, in other respects, farther immediate relief to those engaged in the whale fisheries. But whatever may have been its opinions, from time to time expressed, on special cases not involving the questions now at issue, or the inferences drawn from those opinions; or however it may be presumed to have acquiesced during former years in an erroneous practice, introduced and extended so silently and gradually as at no time to excite its special notice, it cannot now, when its attention is called to the subject by a judicial decision, hesitate to sustain the officers of the customs in carrying out the clear and explicit construction of the law as given by Mr. Justice Story, until Congress think proper to amend it.

A copy of the opinion, as furnished to this office, is hereto appended for your information.

I have only to add that the Secretary of the Treasury concurs in these views.

I am, very respectfully, your obedient servant,

J. N. BARKER, *Comptroller.*

No. 4.

To the President of the United States.

NEW BEDFORD, June 21, 1839.

In consequence of a circular letter from the Comptroller's office, dated June 6, 1839, addressed to the collector of the customs for this district, affecting the interest of all our fellow-citizens, as well as more immediately the owners and mariners of ships employed in the whale fisheries,

at a meeting of such owners and mariners the undersigned were appointed a committee on their behalf respectfully to represent :

That the practice of furnishing to ships employed in the whale fishery registers, and the usual papers accompanying the same, was commenced before any of your memorialists were engaged in the business, and we believe has continued for more than forty years. We are, therefore, unable to state the causes which led to its adoption, but we cannot doubt they were such as at the time were considered by the Government or its officers, sufficient to warrant the same. It is probable that this mode of papering ships employed in the whale fisheries, was adopted when the more extended enterprise of those engaged in its pursuit, protracted their voyages beyond the term for which licenses were granted, and rendered a resort to foreign or very distant ports indispensable to the health of the crews, and the procurement of the necessary supplies for their ships. It was doubtless supposed by the officers of the Government, that vessels sailing under a register, the document which had usually been presented in such ports as the evidence of their national character, would be more certain to be respected and protected as American property, than if furnished with the enrolment and license which, until very recently, have not been accompanied by the sea letters or the Mediterranean passport.

Our impressions on this subject are somewhat confirmed by the recollections of one of our oldest citizens, (long since retired from business, who was formerly engaged in the whale fishery,) who states, that at the period when the practice first existed, such was the cause for furnishing registers, and the other accompanying documents. We have also understood that one or more whale ships were interrupted in the progress of their voyages and long detained in one of the ports in the Pacific ocean, in consequence of having no sea-letters or Mediterranean passports, documents which on that coast had been deemed the most important to prove the national character of vessels.

The origin or cause of granting licenses for special employment, (such as coasting or fishing,) we have always supposed was to give those vessels furnished with them some advantages over other vessels in prosecuting short voyages from port to port, in the United States, and on our own coast in the fishery—while American vessels sailing under registers were compelled to pay tonnage duty, in proceeding from one of our own ports to another with cargo ; whereas, a vessel under a coasting or fishing license was only required to pay the duty once a year. Registered vessels are now required to clear and enter at the custom-house, in proceeding from one port to another in the United States, in all cases, while vessels under coasting licenses are not ; but we never could have supposed that, with the increased expense and disadvantages under which a registered vessel of the United States might pursue such business, there has ever existed any law designed to prohibit it. For had this been the intention of the National Legislature, it would have been evinced by a clear and distinct act to that effect, and not left to be drawn by inference from the construction of the laws as they exist. And whatever may be the strict technicality of the laws, we cannot believe that it was ever the intention of the Government so to mislead those who are engaged in this most important branch of the national industry, as to render the documents received by them in good faith from the proper officers, as the evidence of the title to the national protection, the instruments of denationalizing their ships, and exposing their property to hazard.

We cannot for a moment doubt that such decision must be in its effect at least, directly opposed to the spirit and intention of such laws. It has ever been the wish and endeavor of your memorialists to comply with the laws; if they have not, we conceive the error to have been as justly attributable to the Government officers as to the ship owners at the time it originated. This we think is confirmed by the correspondence of the collector of this port and the Comptroller of the Treasury, in the year 1793, extracts from which are hereunto annexed and to which we beg leave to refer you.

We have never insisted on having registers for our vessels, but have taken such papers as the collectors have given us, when requested to clear our vessels on whaling voyages, and have always received a clearance from the custom-house, in which it was expressed that the vessels were bound on such voyages, clearly evincing that the Government officers conceived that said vessels were authorized to engage in the hazardous undertakings; and we have always felt, in sending them away on the most distant voyages, that we had the full approbation of the Government, and that they, with us, joined heartily in wishes for the success of business, which has always claimed the favorable regard of all civilized Governments, and by many of them considered the proper objects of national bounties.

We would not believe, although we heard it rumored, that it was the intention of the Government to demand penalties of the owners and crews of vessels thus employed, until the receipt of the circular of the Comptroller of the Treasury, dated the 6th inst.

The expenses and difficulties that will arise in carrying the requisitions of said circular into effect, are very great, and we apprehend far beyond what the honorable Secretary of the Treasury and Comptroller anticipated when they issued it. It will necessarily involve in all cases, the expense of petitioning the honorable Secretary of the Treasury, through the district court, by which in all cases a heavy tax is imposed on the petitioners even when the petition is granted.

Great inconvenience and distress will also occur to the crews of these vessels; this will be apparent when borne in mind that the officers and crews are to receive, each his peculiar lay or share of the actual proceeds of the oil obtained on the voyage, as compensation for his services in obtaining it—and those shares varying according to the rank or capacity of the individual, from the master to the smallest boy on board; thus making, to each of the numerous whale ships to which this question is applicable, now abroad and daily arriving in our ports, from twenty to forty men, comprising their crews, jointly interested with the owners in the whole of their cargoes of oil. The number of such vessels, now absent with registers, not being less than three hundred, and the number of their crews seven thousand five hundred men.

The situation of most of these men, who return indebted to those who have furnished them with clothing or personal outfit on the credit of the voyage, and who need the prompt receipt of the proceeds of their voyage, will be most embarrassing, and subject them to serious distress, should this property, in consequence of the construction of the laws alluded to, be held in suspense to await the slow procedure of legal investigation or legislative action thereon.

We, therefore, most respectfully and earnestly request that you will give to this subject all that consideration which is due to its great importance,

and if in your power, or that of the honorable Secretary of the Treasury, that you relieve us from the penalties and duties required by the circular aforesaid.

All of which is most respectfully submitted.

JNO. A. PARKER,
JOS. GRINNELL,
ATHINS ADAMS,
CHAS. W. MORGAN,
E. M. ROBINSON,
JAMES ARNOLD,
ANDREW ROBISON.

No. 5.

To his Excellency Martin Van Buren, President of the United States.

The undersigned, merchants, ship owners and others, citizens of Nantucket interested in the whale fishery, represent, that the recent decision of a judge of the courts of the United States, followed by the circular from the Treasury Department of the 6th inst., in relation to the papers of vessels employed in the whale fishery, inflicts evils upon your memorialists of a serious character, and truly alarming as regards the vitality of the whaling interests.

When considered *nationally*, the whale fishery must hold a conspicuous place in the eye of the statesman, and whatever tends to prostrate its character must be deprecated by every lover of his country's prosperity; but when evils which threaten the very existence of this important branch of American enterprise are brought home to the hearth of them whose entire interests are involved, your memorialists appeal at once to their Government, which, if they have not mistaken its character, is intended to be paternal and protecting in its nature, and designed through its agents to dispense its blessings with a fostering care; and relying on the justice of their cause, they do appeal to the executive of that Government with the most perfect confidence, for relief. They do this not only as right, but as a duty of solemn character, imposed by obligations as citizens and as men.

For an extended view of the facts in the premises, they would respectfully refer to the documents accompanying this memorial. They may, however, be permitted to say that they have, many of them, been for years engaged in the whale fishery, and that they have asked in good faith of the officers of their Government for the papers requisite to sail their ships; that in one word they have had no mind nor will upon this subject, but to fully and unequivocally satisfy the requirements of law. They would further represent, that some of your memorialists have been engaged in the whale fishery from this port, from its commencement in the Pacific, in the year 1791, until the present time, and that during that whole term of time, ships bound to the Pacific have taken registers, and they can have no reasonable doubt, from evidence in their possession, that it was under and with the sanction of the Treasury Department.

Your memorialists would further represent, that it is extremely difficult, under favorable circumstances during the long whale voyages, protracted to some four years' duration, to restrain men from overt acts, and to hold

them in subordination when they become wearied with the countenances of each other, and tired of the dull routine of the unsuccessful voyage; but the undersigned are very fearful for the results, when, in addition to the necessary evils of these tedious voyages, the sailors on board our ships shall learn from the *throne of American justice*, that all obligations to the constituted authority of the vessels have ceased—they ask themselves in whose hands is their property, nay, in whose hands are the lives of sons, husbands, and fathers.

It is the full belief of your memorialists, that it never was the design of our law-makers to produce such a state of things. If, therefore, the President should deem proper, they would respectfully ask, that the decision of the Treasury Department by its recent circular, should be reviewed, and all action suspended until the meeting of Congress; a relief in some mode consistent with the views of the President, and efficient as it regards themselves.

NANTUCKET, *June 24, 1839.*

P. H. Folger
David Thain
Christopher Wyer
George Cobb
George Myrick, jr.
A. N. King
John P. Swain
Timothy G. Wapp
James F. Atheam
Edward H. Barker
Peter Coffin
Joseph Mitchell
George Clarke
William Hardwen
Henry Coffin
Peter Russell
Levi Starbuck
Nathaniel A. Sprague
B. T. Falger
Paul Mitchell, jr.
E. Swain
Thomas Macy
David Mitchell
Robert Mitchell
Albert W. Starbuck
Obed Coffin
John Suel
Charles Swain
Henry Fitzgerald
Silas Coleman
Paul West
Mat. Starbuck
Robert P. Folger
William S. French
Justin Lawrence

Charles F. Gruchiner
Alexander Paddock
Timothy Fitzgerald
Edwin Coffin
Coffin Whippey
Benjamin Gardiner
E. Wild
George Cannon
Samuel Dive
A. T. Harris
William Starbuck
F. S. Russell
G. G. Folger
David U. Coffin
Henry Swain
Alexander Barnard
W. C. Starbuck
Charles G. Nyrick
William H. Chase
Hugh Barnard
Frederick Worth
George W. Macy
Frederick W. Coble
G. W. Ramsb
Job C. Coffin
Edward Folger
H. Gardner
Charles G. Coffin
Charles F. Hussey, jr.
Gorham Coffin
George Starbuck
Robert F. Gardner
George Coffin
James Starbuck
David Barker

H. A. Newrey
 John I. Gardner
 Thomas Coffin
 Jos. M. Chase
 Isaac Macy
 H. E. Valentine
 John W. Bennet
 F. B. Gardner
 C. G. Coggershall
 James Easton
 John Sherman
 Charles Macy
 Reuben Clasby
 Thomas Brown
 Reuben Hallet
 Thomas G. Barnard
 O. B. Swain
 Zenas Coleman
 Reuben Roy
 Rowland Hussey
 James Atheam
 George B. Upton
 S. B. Folger
 Isaac Austin
 Griffin Barney
 Charles Bunker
 Henry Clapp
 George H. Pearce
 Barry McCottle
 Benjamin C. Sanferd
 Robert M. Joy
 William H. Crosby
 Jonathan Shaw
 John Coleman
 Seth Paddack
 Simeon Starbuck
 Charles B. Swain
 George C. Macy
 E. G. Kelley
 James Childs
 Henry Swift
 David Swain
 George Winsdang
 George L. Gardiner
 Edward H. Gevain
 Isaiah Folgoe
 George Shivenick
 Peter Macy
 Samuel B. Tuck
 G. B. E. Wren
 T. W. Lawrence
 Reuben F. Coffin

C. W. Rexford
 Frederick Folger
 George W. Chase
 O. C. Gardner
 Jos. Edwards
 William Upham
 Frederick Barnard
 Charles G. Barnard
 William Brown
 Robert P. Putman
 A. O. Swain
 William Coleman
 Nathaniel Ruggles
 Charles W. Chase
 Charles Mitchell
 Peter Chase
 Charles Pendexter
 H. J. Defrees
 Benjamin W. Chase
 Barne Coffin
 Asa G. Bunker
 William Worth
 James C. Congden
 Henry Cleveland
 E. W. Gardner
 George Russell
 John Munroe
 George D. Coffin
 Timothy Hussey
 Daniel Jones
 C. F. Winslow
 Daniel Whitney
 Mat. Crosby
 James Mitchell
 H. G. O. Dunham
 William F. Brown
 Henry Riddell
 Linzey Riddell
 D. F. Chase
 William Irolgo
 Stephen West
 Alexander Cartwright
 Edward C. Joy
 Samuel Mitchell
 Charles W. Rand
 B. Burditt
 Reuben Joy
 B. Coffin
 James F. Chase
 E. F. Hussey
 P. S. Folger
 R. M. Gardner

J. B. Fitch
 Alexander Ray
 F. W. Mitchell
 A. Lawrence
 Ariel Coffin
 William Watson
 Paul Folger
 E. M. Hinkley
 C. P. Swain
 Elihu Wilson
 S. Pankhurst
 William H. Tabor
 G. W. Ray

William A. King
 G. C. Sheffield
 R. G. Pinkham
 Charles A. Clark
 Thomas Coleman
 N. G. Tuck
 George Creasy
 John Cook, jr.
 F. Mitchell
 John Riddell
 Joseph Allan
 Gorham Macy
 Peter B. Ray

No. 6.

TREASURY DEPARTMENT, *June 29, 1839.*

GENTLEMEN: AS several days will probably elapse before a reply can be received from the President on the subject of your memorial, I hasten to suggest for your consideration one circumstance connected with your relief, which does not appear to be fully understood by those you represent. The Circulars which have been issued by the Comptroller, in consequence of the late decision of Judge Story, as to vessels employed in the Whale fisheries, and of applications to him by several collectors for instructions on the subject, advert to the power possessed by the Secretary of the Treasury to remit forfeitures and penalties in all proper cases. But the Comptroller did not go into details on the extent of that power in any special case, that not being considered as properly belonging to his bureau.

I am happy to inform you, however, that should an application come before me for the remission of those forfeitures and penalties, and should it include among them specifically the *foreign duties* paid on both the vessel and cargo, I entertain little doubt but they all can be released. The only equitable condition, which now occurs to me as suitable to be attached to the remission, is, that a sum equal to the Hospital money should be deducted, if that money has not before been paid.

This would leave those interested in the same state, as to pecuniary payments to the Government, in which they would have stood, had the decision by Judge Story not have been made, nor the circulars enforcing it have issued.

At the same time it will sustain the construction of the Acts of Congress given by the courts of law, and which, on a careful examination of the records of this department, appears in numerous cases and without exception to have been countenanced by instructions given by former Comptrollers during many years immediately subsequent to the passage of those acts. The change in practice afterward appears to have gone up in silence and from convenience.

For your further information as to the mode of procuring immediately the full relief before proposed, where parties do not prefer waiting for the action of Congress, or the decision of the President whether any thing more favorable can properly be done in your behalf, I would observe that the ap-

plication must be made to the Secretary of the Treasury in the manner prescribed by the act of the 3d of March, 1797, and should request all the powers for remitting forfeitures, penalties, and *duties*, to be exercised which is conferred both by that act and the 4th section of the act of the 2d of March, 1803.

With great respect, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

MESSRS. J. A. PARKER, JOS. GRINNELL,
A. ADAMS, C. W. MORGAN, E. M. ROBINSON,
JAMES ARNOLD, ANDREW ROBISON,
Committee at New Bedford.

No. 7.

TREASURY DEPARTMENT, *July 6, 1839.*

GENTLEMEN: Your memorial to the President of the United States has been returned by him to this Department.

He approves the views taken in the circular of the Comptroller, and in my letter to you of the 29th ult., and especially of the proposed remission of the foreign duties. That will leave the whole matter, in a fiscal view, as it stood before the late judicial decision.

He has not been able to discover any further relief that can be properly afforded by the Executive. But the inconvenience of applying to the Department for remission, which will still remain, and that only, connected with the revenue—can be lessened, though it cannot be avoided entirely, till new legislation is had, or the judicial decision before mentioned is overruled by some other court.

All the officers of the customs will be expected, and doubtless will be happy to facilitate, as much as possible, the steps which those interested may find it necessary to take to procure relief; and I feel assured that as little delay and cost will be required in any quarter as are consistent with the laws.

In respect to the influence on the late decision on the safety of the whale ships abroad, and the discipline of their crews, it must be obvious, that the Executive cannot properly interfere with the administration of the laws, whether for civil or criminal liabilities, as between individuals or companies engaged in the fisheries.

But I have no hesitancy in expressing the opinion that our national vessels and consular and diplomatic officers will afford every protection in their power to American citizens, and to what is in fact and in good faith American property—though by inadvertence not accompanied by such papers as the circuit court have decided to be necessary and proper under particular acts of Congress.

Should you consider this last suggestion of sufficient importance to have new instructions sent abroad to that effect by the State and Navy Departments, I entertain no doubt they will be cheerfully issued on your writing to those Departments for the purpose.

In the meantime the apprehension entertained by some, that the crews of vessels departing from the United States under enrolment and license, would, at the end of a year, be legally absolved from their engagement, is

not supposed by the Department to be well founded. But on the contrary, the 6th section of the act of 18th February, 1793, independent of any engagement under the act of July 20, 1790, is believed to preserve, under certain prescribed declarations of the master, all rights and privileges till the arrival of the vessel in the United States.

Respectfully, yours,

LEVI WOODBURY,

Secretary of the Treasury.

MESSRS. J. A. PARKER, JOS. GRINNELL,

A. ADAMS, C. W. MORGAN, E. M. ROBINSON,

JAMES ARNOLD, ANDREW ROBISON,

Committee at New Bedford.

No. 8.

To all to whom these presents shall come :

I, _____, Secretary of the Treasury of the United States, send greeting :

Whereas a statement of facts, bearing date the _____, 183 _____, with the petition

thereto annexed, touching a certain disability and certain foreign duties incurred under the statute of the United States, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," has been transmitted to the Secretary of the Treasury, by the judge of the

pursuant to the statute of the United States, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," as by the said statement of facts and petition remaining in the Treasury Department of the United States, may fully appear: And whereas, I, the said Secretary of the Treasury, having maturely considered the said statement of facts and petition; and it appearing to my satisfaction that the said disability and foreign duties have been incurred without wilful negligence, or any intention of fraud :

Now, therefore, know ye, that I, the said Secretary of the Treasury, in consideration of the premises, and by virtue of the power and authority to me given by the said lastmentioned statute, and by the act of Congress approved March 2d, 1803, entitled "An act in addition to the act entitled 'An act concerning the registering and recording of ships and vessels of the United States,'" and to the act entitled "An act to regulate the collection of duties on imports and tonnage," do hereby decide to remove the disability incurred by the said _____ and to remit to the petitioner all the right, claim and demand of the United States, and of all others whomsoever, to the foreign duties incurred in consequence of said disability on payment of the costs and charges, and on payment of any duties and hospital money which would have been payable if the provisions of the "Act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries," had been in all respects complied with.

Given under my hand and seal of office, in the city of Washington, this _____ day of _____ in the year of our Lord one thousand eight hundred and _____ and the _____ year of independence of the United States.

Secretary of the Treasury.

No. 9.—*A list of the whaling ships, which have incurred penalties that have been remitted, and the names of the petitioners.*

Ships.				Petitioners.				Date of remission.	
St. George	-	-	-	Oliver Crocker	-	-	-	July	27, 1839.
Jasper	-	-	-	Atkins Adams	-	-	-	July	30, 1839.
Barclay	-	-	-	Griffin Barney and others	-	-	-	do.	do.
Francis	-	-	-	James Arnold	-	-	-	July	23, 1839.
Bark Roscoe	-	-	-	Jonathan Bourne, jr.	-	-	-	August	14, 1839.
Bark Equator	-	-	-	John Standish	-	-	-	do.	do.
Minerva Smyth	-	-	-	Isaac Howland, jr., & Co.	-	-	-	do.	do.
Hercules	-	-	-	Jireh Perry	-	-	-	do.	do.
Timoleon	-	-	-	Latham Cross	-	-	-	do.	do.
Pacific	-	-	-	Thomas R. Robeson	-	-	-	do.	do.
Brunette	-	-	-	Nehemiah Leonard	-	-	-	do.	do.
Monmouth	-	-	-	John H. Jones	-	-	-	August	16, 1839.
Mount Vernon	-	-	-	William Folger and others	-	-	-	do.	do.
Bark Winslow	-	-	-	Samuel Rodman	-	-	-	do.	do.
Rosalie, of Warren, R. I.	-	-	-	J. Smith and others	-	-	-	August	27, 1839.
Ship Georgia	-	-	-	Charles Butler, jr., and others	-	-	-	September	10, 1839.
Bark Columbus	-	-	-	William R. Rodman	-	-	-	September	12, 1839.
Ship John Howland	-	-	-	James Howland, 2d	-	-	-	do.	do.
Ansel Gibbs	-	-	-	Gibbs & Jenny	-	-	-	do.	do.
Panama	-	-	-	G. B. Upton and others	-	-	-	do.	do.
Brig Taunton	-	-	-	William Coggeshall	-	-	-	do.	do.
Ship Lucas	-	-	-	Tobey & Ricketson	-	-	-	do.	do.
Schr. Tyleston	-	-	-	Mathew Crosby and others	-	-	-	do.	do.
Ship Columbia	-	-	-	Thomas R. Hussey	-	-	-	October	22, 1839.
Jane, of Warren	-	-	-	Benjamin Eddy, jr., and others	-	-	-	do.	do.
North America	-	-	-	Thomas W. Williams and others	-	-	-	October	23, 1839.
Geo. Endicott and Schr. Plutarch	-	-	-	William P. Randall and others	-	-	-	do.	do.

No. 9—Continued.

Ships.	Petitioners.	Date of remission.
Schr. Pacific - - -	Henry P. Havens and others - - -	October 23, 1839.
London Packet, of Fairhaven - - -	Gibbs & Jenney - - -	do. do.
Novy - - -	Wm. Stone and Nathaniel Noyes, jr. - - -	do. do.
Catawba - - -	Charles Coffin and Henry Coffin - - -	do. do.
Splendid - - -	Abraham Osborn and Daniel Fisher - - -	do. do.
Rebecca Simms - - -	William R. Rodman - - -	October 29, 1839.
Bark Lewis - - -	Lombard & Whitmore - - -	do. do.
Mobile, of New Bedford - - -	Samuel W. Rodman - - -	do. do.
George Washington - - -	Stephen Gibbs - - -	do. do.
Merrimac, of Newburyport - - -	Balch & Lunt - - -	do. do.
Bark Arab - - -	Isaiah F. Terry - - -	do. do.
Ship Corvo - - -	Charles B. Williams and others - - -	November 6, 1839.
Ship Chelsea - - -	Thomas W. Williams and others - - -	do. do.
Gratitude, - - -	Thomas Riddell - - -	November 9, 1839.
Boy, of Warren - - -	Nathaniel M. Wheaton and Charles Barton - - -	November 16, 1839.
Sapphire - - -	Stephen C. Phillips and James W. Cheves - - -	November 25, 1839.
So. Boston - - -	Ezekiel Lowin - - -	do. do.
George, of New Bedford, - - -	John H. Parker & Son - - -	do. do.
Ship Nye, of New Bedford - - -	Thomas Nye, jr. - - -	do. do.
Sarah Frances - - -	Ezekiel Lowin - - -	do. do.
Maria - - -	Charles Mitchell and others - - -	do. do.
Bark Beamin - - -	Gideon Allen - - -	October 25, 1839.
Brig Ann Maria - - -	Joseph S. Barnard - - -	do. do.
Ship Ontario - - -	Samuel Huntling and others - - -	November 29, 1839.
Bartholomew Gosneld - - -	Ward M. Parker - - -	December 9, 1839.
Kingston - - -	Frederick Hussey and others - - -	do. do.
Bark Dryade, of Rochester - - -	Wilson Barstow - - -	do. do.
Fortune, of Plymouth - - -	B. Hodge and A. G. Goodwin - - -	do. do.